

REMARKS

This amendment is intended to place the subject application in condition for allowance. Specifically, independent Claims 1, 27, 28 and 35 were amended. In view of the amendment and the following reasoning for allowance, the applicants hereby respectfully request further examination and reconsideration of the subject application.

1. Interview Summary

A telephonic interview was held on August 7, 2008 between the undersigned and Examiner C. H. Nguyen. During this interview, the 35 USC §101 and 35 USC §103(a) rejections of the above-identified Office Action were discussed. The applicant's representative presented arguments for patentability that are now proffered in this response. The Examiner stated that these arguments would likely be persuasive in regards to the 35 USC §101 rejection. In regard to the 35 USC §103(a) rejection, the Examiner did not commit one way or the other as to whether the changes made to the independent claims overcame the rejection, but stated dependent Claims 9, 16 and 33 might be patentable in view of the arguments.

2. The Section 101 Rejection of Claim 27

Claim 27 was rejected under 35 USC 101 as being directed toward non-statutory subject matter. In essence, the Examiner contends that the claims are directed toward what amounts to a computer program *per se*. The applicant respectfully disagrees.

The applicant is not claiming a computer program *per se* as contended in the Office Action. Generically, the preamble of independent Claim 27 reads:

"A computer-implemented process for..., comprising using a computer to perform the following process actions:"

Thus, the applicant is claiming a process implemented on a computer where the actions of the process are performed using the computer. This is statutory subject matter.

As stated in the MPEP (see Section 2106.01 (1) at Page 2100-18, Rev. 6, September 2007):

"Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. **The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program.**" (*emphasis added*)

Clearly, in the case of Claim 27, the actions are being claimed as part of a statutory process—namely a process with actions that are performed using a computer. Accordingly, given that Claim 27 is directed toward statutory subject matter, it is respectfully requested that the rejection be reconsidered.

3. The Section 103(a) Rejection of Claims 1-38

Claims 1-38 were rejected under 35 USC 103(a) as being obvious over Ho et al., U.S. Patent Application Publication No. 2005/0066284, in view of Salesky et al., U.S. Patent No. 6,343,313. It was contended in the Office Action that Ho teaches all the elements of the rejected claim with the exception of a display module which receives layout instructions and data from the layout module and employs the same to display content on the shared display device. However, it is further contended that this feature is taught in Salesky. Thus, it was concluded that it would have been obvious to incorporate the teachings of Salesky into Ho to produce the applicants' claimed invention. In response, the applicants have amended these claims to make them patentable over the cited

combination. More particularly, independent Claims 1, 27, 28 and 35 have been amended to include a recitation of what kind of user-inputted information is input and used to display content on a shared display.

The applicants now claim:

“a logic module comprising **an application which based on the user-inputted information generates display instructions and data, wherein said user-inputted information comprises at least one of video data or audio data or document data**, a layout module which based on the display instructions and data from the logic module generates layout instructions and packages data for display, and a display module which **receives the layout instructions and data from the layout module and employs the same to display content in the shared display on the display device**” (see Claims 1-26);

“establishing multiple input modalities to input information from multiple users, wherein at least one of the input modalities is characterized by a latency greater than about 1.0 second, **and wherein said user-inputted information comprises at least one of video data or audio data or document data**; and inputting the user information from the multiple input modalities to a single computer program which **employs the user information to control the content displayed in the shared display on the display device**” (see Claim 27)

“a plurality of input modules each providing a different input modality at least one of which is characterized by a latency exceeding about 1 second, and which collectively input information from multiple users, **wherein said user-inputted information comprises at least one of video data or audio data or document data, an application module which receives the user information from the input modules and**

which based on the information generates display layout instructions and packages data for display, and a display module which receives the layout instructions and data from the application module and **employs the information and data to display content in the shared display on the display device**" (See Claims 28-34)

"establishing multiple input modalities to input information from multiple users, wherein at least one of the input modalities is characterized by a latency greater than about 1.0 second, **and wherein said user-inputted information comprises at least one of video data or audio data or document data**; and inputting the user information from the multiple input modalities to a single computer program which **employs the user information to control the content displayed in the shared display on the display device**" (See Claims 35-38).

The feature in the foregoing claims "wherein said user-inputted information comprises at least one of video data or audio data or document data" will be referred to in the following argument as the input data feature. The feature in the foregoing claims where the inputted user information is used to control or display the content in the shared display on the display device will be referred to in the following argument as the shared display feature.

The Ho-Salesky combination does not teach either the claimed input data or the shared display features. The Examiner has already stated in the Office Action that Ho does not teach a display module which receives layout instructions and data, and employs the same to display content in the shared display. Thus, Ho does not teach the claimed shared display feature. Ho also lacks a teaching of the claimed input data feature as there is no mention of user-inputted information being used to generate layout instructions and data for a shared display that include at least one of video data or audio data or document data. Salesky also lacks these teachings.

More particularly, Salesky describes a shared display that is shown on a display

device and whose content comes almost exclusively from prescribed sections of the display screens associated with one or more presenters. Thus, Salesky's shared display is generated from inputted images. The only exceptions involve coordinates for generating and locating pointers associated with certain participants, and certain commands (such as one to change the color map). None of these inputs involves video data or audio data or document data.

Granted, the Examiner contended in the Office Action that Salesky did teach a user inputting video data, audio data and document data, which would then presumably be used in generating the shared display. The applicants respectfully disagree. As to video and audio data, the Examiner in rejecting Claims 24 and 25, indicated Salesky teaches their input via Fig. 8B and its description at Col. 23, lines 1-44. However, the only inputs shown in that figure and description that might be construed as video or audio are the replay inputs. More particularly, the cited section of Salesky reads:

"FIG. 8B illustrates a more complex conference server which handles the more general case. The server in the general case might maintain additional output and additional input queue components for transmitting information to other servers and for storage services, including caching, short-term storing, recording, and archiving, and for later playback. These purposes are distinguished as follows: caching provides fast memory hardware support in improving the performance of the server; short-term storage provides backup and refresh capability for extremely slow or temporarily disconnected clients, for newly connected servers that may need information older than that normally held in the output queue, for quick-turnaround failure recovery, and for other short-term needs; **conference sessions are recorded when they are primarily intended for later viewing by users of the system who may or may not be participating in the session; an archival session captures all or part of a meeting as it occurs and is intended for users who typically were conferees in that session and have a reason to review the session later.** Uses of recorded sessions, especially when they incorporate

synchronized voice, include live online training sessions that also serve for future offline training, technical and marketing demonstrations, and formal presentations that can be broadcast or accessed remotely at will. Archived sessions have uses other than review, including briefing absentees, capturing interactions involving or aiding technical support, evaluating sales personnel, and the like. Of course, these needs and characterizations are not exclusive or exhaustive.

Possible features and methods for storage handling will now be listed. The emphasis will be on recording and archiving, but shorter term storage modes will share many of these characteristics.

During any session, there can be multiple "storage server" queues, or "storage streams," saving output to one or more media. These can be controlled by the server itself, by recorder-like interfaces (similar to a video cassette recorder, or "VCR") at the clients, or by other interfaces operated by conferees. Each stream can be independently controlled, or one controller can control multiple storage streams. The storage facility can operate concurrently in an ongoing meeting to record a live conference, or it can be used by itself to capture a recording for later replay". (*emphasis added*)

As can be seen from the foregoing excerpt, the replay inputs are used in non-conference situation to review a previously held conference. The replay data is not used to generate a shared display, only to show a previously created one. A person viewing a replayed conference cannot change the shared display by entering video or audio data.

In regard to document data, the Examiner in rejecting Claim 26, indicated Salesky teaches its input at Col. 30, lines 15-62. This section of Salesky reads:

"A potential conferee 17(a) has navigated his or her WWW browser to Web server 30(a), and has asked through the Web page presented to connect to

the meeting (as described above in the discussion of FIG. 2). There may be alternative ways, indicated here as 30(b),(c), to connect to the meeting, including direct access to the meeting manager or its database 34 (called here "Meeting DB"). The meeting manager uses this database to hold information concerning the meeting (the database need not be on the same computer as the meeting manager). This information was created when the person who set up the meeting requested that the meeting be scheduled, gave descriptive information for the meeting, specified the keys and privileges, and provided other administrative information. The database is reconfigurable and easily extensible to include many and varied meeting attributes. It may be accessed by a programming interface. **Potential new conferee client 17(a) sends a request to join the meeting, and then supplies the key for the meeting that the potential conferee has obtained previously. Potential client 17(a) may also send previously selected identification information such as icon, gong, etc.,** and this may be stored in Meeting DB or in some other sort of directory service. After the meeting manager has validated potential client 17(a), it sends a message that causes the client software to run on the potential client and then sends that client software the address information for the CSS, such as a URL and port number. At that time, the client software may also receive address information for backup CSSs in case the connection to the meeting fails and automatic or manual attempts to reconnect to the initial CSS fail as well. The client then connects to the meeting, and may pass to the CSS its identification information.

A CSS is created to supervise a single meeting. The monitoring-filtering-queueing structures and procedures of FIGS. 8A,B are performed by the CSS, so FIGS. 8A,B could be viewed as part of the internal working of each CSS in FIGS. 11-22 (in the case of distributed server functions described in FIGS. 9D-F, only part of FIGS. 8A,B might be descriptive of a particular CSS). Indeed, there will be a version of FIG. 8A applying to each data stream

the CSS handles as multipoint real-time traffic from a presenter client. The structure of FIG. 8B shows schematically how these and other multiple input and output data streams are processed. The CSS also handles other input from and output to clients, such as information about attendee and presenter clients that helps with flow control, commands or requests from clients, labeled pointer icon positions, and other stream data and control traffic".

As can be seen in the foregoing excerpt, the only discussion of user inputs involves a request to join, keys, potentially identification information, request for attendee/presenter information, and so on. None of this is document data that is input to control or display content in the shared display.

In order to deem the applicant's claimed invention unpatentable under 35 USC 103, a prima facie showing of obviousness must be made. To make a prima facie showing of obviousness, all of the claimed elements of an applicant's invention must be considered, especially when they are missing from the prior art. If a claimed element is not taught in the prior art and has advantages not appreciated by the prior art, then no prima facie case of obviousness exists. The Federal Circuit court has stated that it was error not to distinguish claims over a combination of prior art references where a material limitation in the claimed system and its purpose was not taught therein (*In Re Fine*, 837 F.2d 107, 5 USPQ2d 1596 (Fed. Cir. 1988)).

In this case, the cited combination does not teach the claimed input data or the shared display features. The cited combination also fails to recognize advantages of these features such as allowing a shared display to be controlled with modalities other than shared image data. Thus, the applicants have claimed a feature not taught in the cited combination, and which has advantages not recognized therein. Accordingly, no prima facie case of obviousness can be established in accordance with the holding of *In Re Fine*. This lack of prima facie showing of obviousness means that the rejected claims are patentable under 35 USC 103 over Ho in view of Salesky. It is, therefore, respectfully requested that Claims 1-38 be allowed based on the previously-quoted

claim language.

In further regard to Claim 9, the applicants claim, "each input module is in communication with each of the other input modules, and wherein each input module comprises a timestamp sub-module which appends onto each message or a part thereof received from a user that is provided to the logic module, an indicator identifying the time the message was received, and wherein each input module comprises a sub-module for coordinating with the other input modules to provide each message or portion thereof to the logic module only after any message or part thereof received by another input module with an earlier timestamp has been provided to the logic module". The Examiner contends in the Office Action that this is taught in Salesky at Col 15, lines 1-35. The section of Salesky reads:

"When a new conferee joins a meeting or before, the conferee selects a personal icon and a characterizing sound (a "gong") which will be the icon and gong that other conferees will associate with the joining conferee. Icons and gongs can be created using well-known techniques for creating icons and audio data. When a new conferee joins a meeting, the conferee client sends his or her personal icon and gong to each other client, via the conference server. The new conferee is then "announced" by the gong. The personal icon of the joining conferee is also added to a conferee icon list maintained on the server or at each client. If another conferee chooses to have the icon list displayed at his or her client, the entrance of the joining conferee can be noted when the new icon appears on the icon list. Other personal information about the conferee, such as name and electronic mail ("email") address may be provided by the conferee and made available to other conferees via the server. As described earlier, the visibility of icons, audibility of gongs, access to personal information, and so on, may be based on the key the conferee used to enter the meeting, on the identity of the conferee (by network address or otherwise), or on a combination of these and other validators.

The presenter can "go off-air," i.e., suspend or pause the image capturing process and can "go on-air," i.e., resume the presentation at will. The network connections can be maintained during the off-air period, but no changes will be sent to the server. Similarly, an attendee can request to be off-air, and no changes will be sent or scheduled by the server during the off-air time.

If clients are so configured, conferees can be given lists or iconic representations of the participants in the conference, as mentioned above. Those conferees that are presenting, those who are off-air, and those who are requesting to present can be marked. Various subsets of conferees, for example those in side-conversations, those in other meetings, those connected to a particular server, and in general those selected by some property of the system's current configuration, can also be marked. The visibility of the lists and the presence of any markings may be controlled by users, administrators, or others, based on privileges or other criteria. In addition, graphical representations of a meeting or part of a meeting, or of several meetings, may be available for display, depending on privileges".

There is absolutely nothing in the foregoing excerpt to suggest that the input modules are in communication with each other, or that they include timestamp sub-modules, or that they include sub-modules for coordinating timestamps with each other.

As such, the cited combination does not teach the above-quoted features, and fails to recognize advantages of this feature such as coordinating timestamps between different input modules. Thus, the applicants have claimed another feature not taught in the cited combination, and which has advantages not recognized therein. Accordingly, no prima facie case of obviousness can be established in accordance with the holding of *In Re Fine*. This lack of prima facie showing of obviousness means that rejected Claim 9 is also patentable under 35 USC 103 over Ho in view of Salesky for the

foregoing reason as well.

In further regard to Claim 16, the applicants claim, "the application associated with the logic module comprising one of (i) a computer game, (ii) an electronic bulletin board, (iii) a voting/polling tool, (iv) a web browsing tool, (v) a computer graphics program or (vi) a lottery tool". The Examiner contends in the Office Action that this is taught in Salesky at Col 23, lines 1-33. The section of Salesky reads:

"FIG. 8B illustrates a more complex conference server which handles the more general case. The server in the general case might maintain additional output and additional input queue components for transmitting information to other servers and for storage services, including caching, short-term storing, recording, and archiving, and for later playback. These purposes are distinguished as follows: caching provides fast memory hardware support in improving the performance of the server; short-term storage provides backup and refresh capability for extremely slow or temporarily disconnected clients, for newly connected servers that may need information older than that normally held in the output queue, for quick-turnaround failure recovery, and for other short-term needs; conference sessions are recorded when they are primarily intended for later viewing by users of the system who may or may not be participating in the session; an archival session captures all or part of a meeting as it occurs and is intended for users who typically were conferees in that session and have a reason to review the session later. Uses of recorded sessions, especially when they incorporate synchronized voice, include live online training sessions that also serve for future offline training, technical and marketing demonstrations, and formal presentations that can be broadcast or accessed remotely at will. Archived sessions have uses other than review, including briefing absentees, capturing interactions involving or aiding technical support, evaluating sales personnel, and the like. Of course, these needs and characterizations are

not exclusive or exhaustive.

Possible features and methods for storage handling will now be listed. The emphasis will be on recording and archiving, but shorter term storage modes will share many of these characteristics".

There is absolutely nothing in the foregoing excerpt to suggest that the claimed logic module includes a computer game, or an electronic bulletin board, or a voting/polling tool, or a web browsing tool, or a computer graphics program, or a lottery tool.

As such, the cited combination does not teach the above-quoted logic module feature, and fails to recognize advantages of this feature such as providing the participants with something other than screen shots in the shared display. Thus, the applicants have claimed another feature not taught in the cited combination, and which has advantages not recognized therein. Accordingly, no prima facie case of obviousness can be established in accordance with the holding of *In Re Fine*. This lack of prima facie showing of obviousness means that rejected Claim 16 is also patentable under 35 USC 103 over Ho in view of Salesky for the foregoing reason as well.

In further regard to Claim 33, the applicants claim, "the application module comprises a sub-module for archiving the identity of each user requesting data, as well as when the information was requested and what data was provided to the user". The Examiner contends in the Office Action that the reasons for rejection this claim were discussed with respect to the rejection of Claims 1-9. However, while Claims 5-9 do involved data output to a user, these claims do not address the archiving of "the identity of each user requesting data, as well as when the information was requested and what data was provided to the user". The cited Ho-Salesky combination also lacks any mention of this type of archiving.

As the cited combination does not teach the above-quoted archiving feature, and fails to recognize advantages of this feature such as tracking user requests and the

responses thereto, the applicants have claimed another feature not taught in the cited combination, and which has advantages not recognized therein. Accordingly, no prima facie case of obviousness can be established in accordance with the holding of *In Re Fine*. This lack of prima facie showing of obviousness means that rejected Claim 33 is also patentable under 35 USC 103 over Ho in view of Salesky for the foregoing reason as well.

Finally, it is noted that while the applicants have provided arguments to show that Ho does not teach certain elements of the rejected claims, no admission is made that Ho is a proper reference for the subject 35 USC 103 rejection. Ho was filed less than 4 months prior to the subject application. **As such the applicants reserve the right to swear behind Ho to eliminate it as a reference should the rejection be sustained.**

4. Summary

In summary, it is believed the claims are in condition for allowance. As such, reconsideration of the rejection of Claims 1-38 is respectfully requested. In addition, allowance of these claims at an early date is courteously solicited.

Respectfully submitted,



Richard T. Lyon
Registration No. 37,385
Attorney for Applicant

LYON & HARR, LLP
300 Esplanade Drive, Suite 800
Oxnard, CA 93036
(805) 278-8855